

Testimony to Administrative Rules Committee
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Mr. Chairman and Members of the Administrative Rules Committee: My name is Scott Porsborg and I am the special assistant attorney general for the North Dakota State Electrical Board. I was present at some of the board discussions that led up to the drafting and subsequent passage of HB 1218. I also participated in drafting HB 1218 and was present at most of the legislative hearings that led to its passage.

Apprenticeship training was addressed with the industry at several board meetings prior to the legislative session. At each of the board meetings I attended, the focus was always on improving the **training** received by apprentice electricians, without unduly increasing the burdens on electrical contractors in the State. These discussions are what led to HB 1218.

The “approved by the BAT” language in HB 1218 was prompted by the need for a standard for training. Concerns were expressed by some industry members that leaving this open-ended would allow unqualified trainers to descend on the state. BAT representatives testified during the session that BAT reviews, vets and approves training curricula. Before agreeing on this language, the board verified that the NDSSS, for example, provided training to residents of other states that was BAT approved.

At each of the committee meetings during the session, once again the focus was on training. It was only after HB 1218 passed that the board was notified that BAT does not have a procedure for approving “training.” BAT initially informed the board that they would only approve training if it is part of a comprehensive BAT “program.” In order to be in a BAT program, an apprentice must be employed by an electrical contractor who signs a contract with BAT. BAT requires that these contracts include requirements beyond simple classroom training. One example of these requirements is that electrical contractors pay wage step increases.

The board saw several problems if HB 1218 were interpreted to require BAT approved “programs” as opposed to BAT approved “training.” First BAT programs place the responsibility for providing training on the contractor, as opposed to the apprentice. In other words, an apprentice working for an electrical contractor who did not want to sign a contract with BAT – and agree to all of BAT’s other requirements -- could not receive BAT-approved training. The board wanted ALL apprentices who seek journeyman’s status to have the ability to get trained on their own volition.

Second, and most important, BAT’s requirements beyond training – e.g. mandatory wage step increases – were never presented to the legislature. The focus was always on training, and only training. The board did not want to impose requirements

that legislative committee members voting on the bill did not know were going to be imposed on the industry.

After some discussions, BAT agreed to disclose the entities that provide training as part of BAT approved programs in North Dakota. One of them, for example, is the NDSSS. BAT has approved the NDSSS's correspondence curriculum and it is used to satisfy BAT's training requirements for contractors who do sign up for BAT programs.

The objection to the board's administrative rules appears to relate to the substitution of the word "recognized" for the word "approved." Because BAT has indicated they will not provide an official stamp of approval for mere training curricula, but only for training as part of a program, the board felt the word "recognized" accomplished two things: 1) First, it still left the standard in place, because the board will only approve training curricula that BAT has vetted and used; and 2) it clearly avoids the unintended consequence of imposing other requirements, unrelated to training, on North Dakota's electrical contractors.

Some would argue that a curriculum (like NDSSS's outreach program) which has been examined and vetted by BAT and is utilized in BAT programs has indeed been "approved" by BAT. However, some have argued the word "approved" in HB 1218 means that BAT must provide some official document evidencing that the curriculum, without all of BAT's other requirements, is officially "approved." The use of the word "recognized" alleviates any ambiguity and confusion and implements the intent of the legislature.

The board believes that imposing the requirements advocated by the opposition would cause an absurd, unintended result, and would negate the legislative intent of HB 1218. The attorney general's office has approved the legality of these rules, and confirmed that they do not exceed the board's statutory authority. Thank you for the opportunity to explain some of the history and background of HB 1218 and the board's administrative rules.